

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7556

BILL NUMBER: SB 529

NOTE PREPARED: Jan 10, 2011

BILL AMENDED:

SUBJECT: Stolen or Misappropriated Information Technology.

FIRST AUTHOR: Sen. Merritt

BILL STATUS: As Introduced

FIRST SPONSOR:

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill makes it an unfair practice for a person that manufactures a product while using stolen or misappropriated information technology in any part of the person's business operations to sell or offer for sale in Indiana the product, separately or as a component of another product, in competition with a product that was manufactured without the use of such stolen or misappropriated information technology.

It provides that a person injured by the unfair practice may sue for relief after the owner of the stolen or misappropriated information technology provides notice and the person using the stolen or misappropriated information technology fails to cease using the stolen or misappropriated information technology by a certain period of time, and it provides that a person that sues for relief may receive injunctive relief or recover damages.

The bill provides that, if a court finds that a person has sold or offered for sale products in Indiana that were manufactured while using stolen or misappropriated information technology, there is a rebuttable presumption that the person who is injured by the unfair practice will suffer irreparable harm if the products continue to be sold or offered for sale in Indiana.

It allows the court to order punitive damages if the unfair practice is willful. It also requires a court to order costs and reasonable attorney's fees to the party that prevails in an action.

The bill establishes a defense to an action if the aggregate retail value of the stolen or misappropriated information technology used is less than \$10,000. It provides that a court may, if certain conditions apply, enjoin the sale or offering for sale in Indiana of any product that was sold or offered for sale in violation of law, including enjoining a third party from selling or offering for sale the product.

The bill provides that a person that sues for relief may proceed in rem and that the products are subject to attachment. It also provides that a court may not enforce an order for injunctive relief or attachment against third parties that meet certain requirements. The bill requires the court, pursuant to applicable rules of discovery, to permit the plaintiff, the plaintiff's representative, or if appropriate, a judicially appointed designee to enter onto the defendant's business premises to inspect any information technology, records, files, or other evidence that is relevant to the alleged unfair practice.

The bill establishes exceptions and other requirements.

Effective Date: July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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